

# Clarke County

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## **PLANNING COMMISSION REGULAR MEETING MINUTES 2011 June 3**



A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, 2011 June 3.

Chair Ohrstrom called the meeting to order at 9:09 a.m.

### **ATTENDANCE**

**Present:** George Ohrstrom, II; Chair; Anne Caldwell, Vice Chair; A.R. Dunning, Jr., Scott Kreider, Tom McFillen, Bev McKay, Cliff Nelson, Chip Steinmetz, Richard Thuss, and Bob Wade  
**Absent:** Clay Brumback  
**Staff present:** Charles Johnston, AICP, Planning Director; Jesse Russell, Zoning Administrator, and Debbie Bean, Recording Secretary

### **APPROVAL OF AGENDA**

The Commission voted unanimously to approve the agenda.

**Yes:** Caldwell, Dunning, Kreider, McFillen (moved), McKay, Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade

**No:** No one

**Absent:** Brumback

### **APPROVAL OF MINUTES**

The Commission voted unanimously to approve the briefing meeting minutes of 2011 May 3.

**Yes:** Caldwell (seconded), Dunning, Kreider, McFillen, McKay, Nelson (moved), Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Brumback

The Commission voted unanimously to approve the regular meeting minutes of 2011 May 6.

**Yes:** Caldwell (moved), Dunning, Kreider, McFillen (seconded), McKay, Nelson, Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Brumback

### **Introduction of new Executive Director of the Northern Shenandoah Valley Regional Commission: Martha Shickle, and review of the Commission's Annual Work Program.**

Ms. Shickle was present and gave a brief discussion on the highlights of the three core areas the Commission is currently working on: transportation, natural resources, and community development. She said that Clarke County had reviewed the VDOT 2035 Transportation Plan and had sent comments to the Department of Transportation, which will be reflected in a revised Plan. She discussed Natural Resources issues and stated that Clarke County is currently in partnership with a private organization submitting a national fish and wildlife foundation grant application. She said the Commission would provide assistance to Clarke County

with this undertaking. Regarding Community Development, she said that Commission staff had been assisting the County in updating the Double Tollgate Area Plan to address its water and sewer service needs.

She answered questions from the Planning Commission and stated that she looks forward to being more involved with the local counties and communities. She thanked Mr. Johnston and the Commission for inviting her to speak at the meeting today.

### **MAJOR SUBDIVISION - PUBLIC HEARING**

**H. Robert Showers, Attorney for Salvation Army (Ron Mislowsky, Engineer, PHR&A Agent) requests approval for a 22-lot subdivision for Tax Map Parcels 13--(A)--13 [6 tracts] and 13--(A)--56 located at 642 Westwood Road, Russell Election District, zoned Agricultural Open-Space-Conservation (AOC). S-08-01**

Mr. Russell explained this request. He said that he is still waiting for the applicant to submit a karst plan and a consumer disclosure statement. He stated that Chester Engineers have provided comments on erosion sediment control and stormwater management review, which he provided to the Commission. The applicant has requested to postpone the meeting and continue the public hearing until the July 1<sup>st</sup> meeting. He said that since the karst plan has not been provided he feels it is not likely to get the plan and review it before the meeting on July 1. He stated that since we do not have an August meeting he believes it would be reasonable to postpone until the September meeting. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom asked the Commission for further comments.

Commissioner Dunning stated he thinks having a resistivity test is a good idea. He said he has concerns about the possibility of sinkholes on the property. Mr. Russell stated that our ordinance states that a resistivity test is only required on perk tests. Chair Ohrstrom said we cannot require something that is not in our ordinance.

Commissioner Wade suggested that we not rush through this proposal as the applicant is taking their time to provide us with the information we have requested. He said he would like to have our engineer answer the question about how good is a karst plan without a resistivity test.

Commissioner Dunning asked if there would be increased road costs if all 22 lots were accessed by road off of Westwood Road. He then asked if the provision of a private access easement off of Triple J Road will result in lower costs for the applicant. Commissioner McKay and Mr. Russell both answered 'Yes', because the access easement off Triple J Road would not have to meet VDOT requirements. Mr. Johnston said that the access road off of Westwood Road was being built to meet VDOT requirements because of the number of parcels it serves. Commissioner Dunning asked Mr. Johnston why not have all the lots come off of one road. Mr. Johnston stated that there are issues of having an extremely long cul-de-sac (possibly a mile and a half up to two miles long) in order to extend it all the way to service all the lots and the lot location was dictated by where drain fields could be found. Mr. Russell explained that the property is in seven tracts for the purposes of dwelling unit right allocation and the Subdivision Ordinance limits the transfer of dwelling unit rights from one parcel to another to discourage the clustering of large numbers of DURs.

Mr. Russell stated that he would like to resolve the issue regarding the note on the plat about the future public school use on proposed parcel 22. He asked the Commissioners if they want it on or taken off.

Commissioner McFillen said his own personal opinion is to take it off.

Commissioner Dunning suggested that Robert Mitchell, the County's land use attorney review the plat again. Mr. Johnston said he and Mr. Russell had asked Mr. Mitchell and Mr. Mitchell said that it should be removed because the original gift agreement was no longer valid. Commissioner Dunning stated that he wants Mr. Mitchell to put this in writing.

Commissioner Kreider read from the April 1<sup>st</sup> Commission meeting minutes: "The county's land use attorney, Robert Mitchell, stated that in his opinion the agreement between the Salvation Army and the Clarke County Educational Foundation is no longer valid and therefore Lot 22 is not a possible school site and therefore the note shown on the plat should not concern the Planning Commission." Commissioner Dunning stated that this property was offered to the County and the County could use it for athletic fields and he does not want to see the note removed.

Commissioner Steinmetz said that this property belongs to the Salvation Army and whatever happens to it is the decision of the property owner regardless of what we think. He said he believes we need to have a good relationship with the Salvation Army instead of making this a combative situation.

Commissioner Caldwell suggested that the Commission vote on whether the note should or should not be on the plat.

Chair Ohrstrom called for a motion as to whether the note remains on the plat.

The Commission voted to leave it up to the applicant as to what is put on the plat.

**Yes:** Caldwell (moved), Kreider, Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade

**No:** Dunning, McFillen, and McKay

**Absent:** Brumback

There being no further discussion by the Commission, Chair Ohrstrom called for a motion.

The Commission voted to postpone action and to continue the public hearing for 90 days so as to provide the applicant time to submit the necessary documents and plans required for final action by the Planning Commission.

**Yes:** Caldwell (seconded), Dunning, Kreider, McFillen, McKay, Nelson, Ohrstrom, Steinmetz, Thuss (moved), and Wade

**No:** No one

**Absent:** Brumback

### **MINOR SUBDIVISION**

**Longwood Farm, LP (Cary Embury, Agent) requests approval for a two-lot subdivision and maximum lot size exception for Tax Map #22-((A))-102 located at 899 Browntown Road, Millwood Election District, zoned Agricultural-Open Space-Conservation (AOC). MS-11-04, MLSE-11-01**

Mr. Russell explained this request. He said the applicant is requesting final plat approval for a 2 lot minor subdivision. He stated that the applicant is using a maximum lot size exception for one of the pre-1980 homes, which is permitted by right and does not need Planning Commission approval. He stated that each proposed lots have an existing drain field and each have located a reserve drain field. He said the Health Department has approved both septic proposals in accordance with the Clarke County Subdivision

Ordinance. He said the applicant has met all requirements of the Subdivision Ordinance for final plat approval. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request on condition that the applicant provides a Deed of Dedication before the Zoning Administrator signs the survey plats.

**Yes:** Caldwell, Dunning (moved), Kreider, McFillen (seconded), Nelson, Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Brumback

**Abstained:** McKay

### **TEXT AMENDMENT – PUBLIC HEARING**

**The Clarke Planning Commission will consider the amendment of the County Zoning Ordinance: Section 3-E-3-e, Certificates of Appropriateness (in Historic Overlay Districts), so as to require the review of changes to the roof or windows of contributing buildings (in addition to changes that require a Building Permit) to be reviewed by the full Historic Preservation Commission instead of the Commission's Executive Committee. The changes also edit the sections for clarity and to specifically state that the public hearing notice requirements shall follow the requirements for all other public hearings, as described in Zoning Ordinance section 10-E.**

**Section 3-E-3-f, Appeals, which references Virginia Code Section 15.2306, which allows the demolition of an historic structure if it is offered for "a price reasonably related to its fair market value", so as to define this phrase as meaning a price within 20% of the current property value assessed by the Clarke County Commissioner of the Revenue. TA-11-03**

Mr. Johnston explained this request. He stated that at the last Planning Commission meeting the Commission members suggested rewording the phrase "a price within 20% of the current value" to be clarified to read "a price not exceeding 20% of the current value. He stated that the County Historic Preservation Commission voted to recommend both amendments. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments Chair Ohrstrom asked the Commission if there were any further comments.

Commissioner Steinmetz stated that he would like to see a time limit for the Historic Preservation Commission action instead of letting an application hang for a period of time.

Commissioner Wade said the wording is not clear and feels it should be further worked on.

Commissioner Thuss asked how often does this problem arise. Mr. Johnston stated that it does not happen very often and he was trying to fix it before it becomes a problem.

Commissioner Dunning said he agrees with Mr. Johnston but feels it just needs to be re-worded.

Commissioner Steinmetz stated that he agrees and thinks it needs to be worked on some more.

Mr. Johnston suggested that he would work with Commissioner Steinmetz on revising the language of this text amendment.

The Commission voted unanimously to send this amendment back to staff for revising the language, which

may result in re-advertising.

**Yes:** Caldwell (moved), Dunning (seconded), Kreider, McFillen, McKay, Nelson, Ohrstrom, Steinmetz, Thuss, and Wade

**No:** No one

**Absent:** Brumback

**Double Tollgate Area Plan - update** – Chuck Johnston

Mr. Johnston gave a brief discussion regarding this matter. He stated that the Board of Supervisors at their May 24<sup>th</sup> meeting voted to refer this to the Planning Commission. He stated that the Board is requesting that the Planning Commission review the land use policies for Double Tollgate. He said that the Board is also requesting that the Planning Commission determine how to provide sewer service for commercial development at Double Tollgate using drain fields or other individualized methods of waste treatment.

Chair Ohrstrom said he would name a committee of Planning Commissioners and citizens to study the long term and short term issues of this area. Commissioner Dunning stated that it would probably take months before anything happens on this. Chair Ohrstrom said that he would be in touch with the individuals to form a committee.

**Board/Committee Reports**

Board of Supervisors – Pete Dunning

Commissioner Dunning stated he believes that next year is going to be a tough year. He said that money is going to be really tight. He said that in the last 4 or 5 years approximately 220 students have dropped from the school system. He stated that if we lose another 50 students it would cost around \$300,000.00 to \$500,000.00. He said another concern is that the schools have had money given to them this year, which they will not have in the future.

Sanitary Authority – Pete Dunning

Commissioner Dunning stated that their primary interest is to stay in the black and the second item is to replace the elevated tank in Browntown.

Board of Septic & Well Appeals – Pete Dunning

Commissioner Dunning said the Board had not met.

Board of Zoning Appeals – Anne Caldwell

Commissioner Caldwell said the Board had not met.

Historic Preservation Commission – Cliff Nelson

Commissioner Nelson stated that the Commission met on 2011 May 17 at the Battletown Inn for its regular meeting, which was followed by the annual awards luncheon. He said the 2011 Preservation Awards were presented to:

- Berryville Main Street, Inc. (Kate Petraneck, Chair) and the Town of Berryville (Wilson Kirby, Mayor) for the renovation of the former Berryville Town Hall as The Fire House Gallery and Shop;
- The University of Virginia (David Carr, Blandy Farm Director) for the stewardship of the historic structures at Blandy Farm;
- Page Carter for her commitment to the historic resources of the County; and
- John Hudson, the Bank of Clarke County (John Milleson, President), and the Town of Boyce (Franklin Roberts, Mayor) for Mr. Hudson's book *Welcome to Boyceville*, which Mr. Hudson wrote for the 2010 centennial celebration of the Town's incorporation and which the Bank and the Town published.

He stated he was not able to attend the meeting, as his presence was needed for a meeting regarding the Sesquicentennial Civil War Committee. He said that he and Mr. Russell had a pleasant meeting at the Holy Cross Abbey. He stated that they are very supportive of one function of the 150<sup>th</sup>, which includes a commemoration of the Battle of Cool Spring.

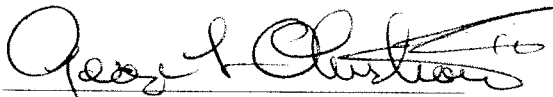
Conservation Easement Authority – George Ohrstrom, II  
Chair Ohrstrom stated that the Authority is soliciting more grants from the state.

**Staff Reports**

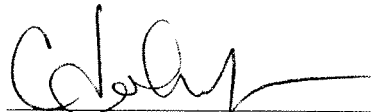
Natural Resource Activities – Alison Teetor  
Ms. Teetor was not present and there was no report.

Enforcement Officer – Nancy Olin  
Ms. Olin's progress reports for 2011 May 3 thru 2011 May 27 were reviewed.

There being no further discussion, the meeting was adjourned at 10:45 a.m. until the next regular meeting of the Commission on 2011 July 1.



George L. Ohrstrom, II, Chair



Charles Johnston, Clerk

Minutes prepared by Debbie Bean, Recording Secretary